

21.06.2023
Court No.24
Item No.18
AP

WPA 5725 of 2023

**Saidul Islam
Vs.
The State of West Bengal and Ors.**

Mr. Prosenjit Mukherjee
Mr. Saptarshi Chakraborty
Mr. Arghya Kamal Das
Mr. Aslam Parper

... For the Petitioner.

Mr. Rajarshi Basu
Mr. Parikshit Goswami

... For the State.

Mr. Animesh Mukherjee
Mr. Subrata Karmakar

... For the Respondent No.10.

From the report filed on behalf of the District Magistrate it appears that an inspection was conducted to ascertain as to whether the allegation of the petitioner that construction has been made over agricultural plot of land is correct or not.

The report of the Sub-Divisional Officer, Rampurhat, Birbhum clearly mentions that the plot over which the construction has been made is an agricultural land. The plot No.1423 is an agricultural land adjacent to plot No.1424/2854. No application was received by the Nalhati Municipality for raising construction of dwelling house over the plot No.1423.

The private respondent was found eligible for obtaining grant under the P.M.A.Y. Fund was sanctioned for raising construction in respect of plot No.1616 but the private respondent raised construction over plot No.1423. Geo-Tagging was done in plot No.1616.

According to the provisions of law, no construction can be made over agricultural land without obtaining the conversion certificate from the concerned authority.

Learned advocate representing the private respondent failed to produce any provision of law, which permits construction over agricultural land without conversion of its classification.

From the report filed on behalf of the District Magistrate it appears that admittedly the construction has been made over agricultural plot of land. The same is not permissible in law. Accordingly, the construction is liable to be demolished.

As the construction was made after obtaining fund under the P.M.A.Y., the same ought to have been utilized in accordance with law. As the fund was utilized for raising construction in an illegal manner, the private respondent, who is responsible for making such unauthorized construction, is liable to refund the amount.

The District Magistrate is accordingly directed to take steps through the concerned authority for demolition of the unauthorized construction and recovery of the amount released in favour of the private respondent for the purpose of raising the said construction. Steps shall be taken in the matter at the earliest, positively within a period of 16 weeks from the date of receipt of a copy of this order.

The writ petition stands disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Hon'ble Court.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)